

Qualifications of Teachers and Paraprofessionals

Sec. 200.55 Qualifications of teachers.

(a) Newly hired teachers in Title I programs. (1) An LEA must ensure that all teachers hired after the first day of the 2002-2003 school year to teach core academic subjects in a program supported with funds under subpart A of this part are highly qualified as defined in Sec. 200.56.

(2) For the purpose of paragraph (a)(1) of this section, a teacher teaching in a program supported with funds under subpart A of this part is--

(i) A teacher in a targeted assisted school who is paid with funds under subpart A of this part; or

(ii) A teacher in a schoolwide program school.

(b)(1) All teachers of core academic subjects. Not later than the end of the 2005-2006 school year, each State that receives funds under subpart A of this part must ensure that all teachers in the State who teach core academic subjects are highly qualified as defined in Sec. 200.56.

(2) A teacher of a subject other than a core academic subject--such as some vocational education teachers--is not required to meet the requirements in Sec. 200.56.

(c) Definition. The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

Sec. 200.56 Definition of "highly qualified teacher."

To be a "highly qualified teacher," a teacher covered under Sec. 200.55 must meet the requirements in paragraph (a) and either paragraph (b) or (c) of this section.

(a) In general. (1) Except as provided in paragraph (a)(2) of this section, a teacher covered under Sec. 200.55 must--

(i) Have obtained full State certification as a teacher--which may include certification obtained through alternative routes to certification; or

(ii)(A) Have passed the State teacher licensing examination; and

(B) Hold a license to teach in the State.

(iii) A teacher meets the requirement in paragraphs (a)(1)(i) or (ii) of this section if the teacher--

(A) Has fulfilled the State's certification and licensure requirements applicable to the years of experience the teacher possesses; or

(B) Is participating in an alternate route certification program under which the teacher is--

(1) Permitted by the State to assume functions as a teacher; and

(2) Making satisfactory progress toward full certification as prescribed by the State and the program.

(2) A teacher teaching in a public charter school in a State must meet the certification and licensure requirements, if any, contained in a State's charter school law.

(3) If a teacher has had certification or licensure requirements waived on an emergency, temporary, or provisional basis, the teacher is not highly qualified.

(b) Teachers new to the profession. A teacher covered under

Sec. 200.55 who is new to the profession must--

- (1) Hold at least a bachelor's degree; and
- (2) At the elementary level, demonstrate, by passing a State test, subject knowledge and teaching skills in reading/language arts, writing, mathematics, and other areas of the basic elementary school curriculum; or
- (3) At the middle and high school levels, demonstrate a high level of competency by--
 - (i) Passing a State test in each academic subject in which the teacher teaches; or
 - (ii) Successfully completing in each academic subject in which the teacher teaches--
 - (A) An undergraduate major;
 - (B) A graduate degree;
 - (C) Coursework equivalent to an undergraduate major; or
 - (D) Advanced certification or credentials.
- (c) Teachers not new to the profession. A teacher covered under

Sec. 200.55 who is not new to the profession must--

- (1) Hold at least a bachelor's degree;
- (2) Meet the applicable requirements in paragraph (b) of this section; and
- (3) Based on a high, objective, uniform State standard of evaluation in accordance with section 9101(23)(C)(ii) of the Act, demonstrate competence in all the academic subjects in which the teacher teaches.

Sec. 200.57 Plans to increase teacher quality.

(a) State plan. (1) A State that receives funds under subpart A of this part must develop a plan to ensure that all teachers in the State who teach core academic subjects are highly qualified not later than the end of the 2005-2006 school year.

(2) The State's plan--

(i) Must establish annual measurable objectives for each LEA and school that include, at a minimum, an annual increase in the percentage of--

- (A) Highly qualified teachers at each LEA and school; and
- (B) Teachers who are receiving high-quality professional development as defined in section 9101(34) of the Act; and

(ii) May include other measures that the State determines are appropriate to increase teacher qualifications.

(b) Local plan. An LEA that receives funds under subpart A of this part must develop a plan to ensure that all teachers in the LEA who teach core academic subjects are highly qualified not later than the end of the 2005-2006 school year.

Sec. 200.58 Qualifications of paraprofessionals.

(a)(1) Applicability. An LEA must ensure that each paraprofessional who works in a program supported with funds under subpart A of this part meets the requirements in paragraph (b) of this section and, except as provided in paragraph (e) of this section, the requirements in paragraph (c) or (d) of this section.

(2) For purposes of this section, the term ``paraprofessional"--

- (i) Means an individual who provides instructional support consistent with Sec. 200.59; and
- (ii) Does not include individuals who have only non-instructional duties (such as providing technical support for computers, providing personal care services, or performing clerical duties).
- (3) For the purpose of paragraph (a) of this section, a paraprofessional working in "a program supported with funds under subpart A of this part" is--
 - (i) A paraprofessional in a targeted assisted school who is paid with funds under subpart A of this part; or
 - (ii) Any paraprofessional in a schoolwide program school.
- (b) All paraprofessionals. A paraprofessional covered under paragraph (a) of this section, regardless of the paraprofessional's hiring date, must have earned a secondary school diploma or its recognized equivalent.
- (c) New paraprofessionals. A paraprofessional covered under paragraph (a) of this section who is hired after January 8, 2002 must have--
 - (1) Completed at least two years of study at an institution of higher education;
 - (2) Obtained an associate's or higher degree; or
 - (3)(i) Met a rigorous standard of quality, and can demonstrate--through a formal State or local academic assessment--knowledge of, and the ability to assist in instructing, as appropriate--
 - (A) Reading/language arts, writing, and mathematics; or
 - (B) Reading readiness, writing readiness, and mathematics readiness.
 - (ii) A secondary school diploma or its recognized equivalent is necessary, but not sufficient, to meet the requirement in paragraph
- (c)(3)(i) of this section.
- (d) Existing paraprofessionals. Each paraprofessional who was hired before January 8, 2002 must meet the requirements in paragraph (c) of this section within four years after that date.
- (e) Exceptions. A paraprofessional does not need to meet the requirements in paragraph (c) or (d) of this section if the paraprofessional--
 - (1)(i) Is proficient in English and a language other than English; and
 - (ii) Acts as a translator to enhance the participation of limited English proficient children under subpart A of this part; or
 - (2) Has duties that consist solely of conducting parental involvement activities.

Sec. 200.59 Duties of paraprofessionals.

- (a) A paraprofessional covered under Sec. 200.58 may not be assigned a duty inconsistent with paragraph (b) of this section.
- (b) A paraprofessional covered under Sec. 200.58 may perform the following duties:
 - (1) One-on-one tutoring for eligible students if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher--that is, not during the regular school day.
 - (2) Assisting in classroom management.
 - (3) Assisting in computer instruction.
 - (4) Conducting parent involvement activities.
 - (5) Providing instructional support in a library or media center.
 - (6) Acting as a translator.
 - (7) Providing instructional support services.

(c)(1) A paraprofessional may not provide any instructional support service to a student unless the paraprofessional is working under the direct supervision of a teacher who meets the requirements in Sec. 200.56.

(2) A paraprofessional works under the direct supervision of a teacher if--

(i) The teacher plans the instructional activities that the paraprofessional carries out;

(ii) The teacher evaluates the achievement of the students with whom the paraprofessional is working; and

(iii) The paraprofessional works in close and frequent physical proximity to the teacher.

(d) A paraprofessional may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under subpart A of this part--including non-instructional duties and duties that do not benefit participating students--if the amount of time the paraprofessional spends on those duties is the same proportion of total work time as the time spent by similar personnel at the same school.

Sec. 200.60 Expenditures for professional development.

(a)(1) Unless a lesser amount is needed because most teachers and paraprofessionals covered under Secs. 200.55 and 200.58 meet the requirements in those sections, an LEA must use funds it receives under subpart A of this part for professional development activities to ensure that teachers and paraprofessionals meet the requirements of Secs. 200.56 and 200.58.

(2) The LEA must use these funds as follows:

(i) For each of fiscal years 2002 and 2003, the LEA must use not less than 5 percent or more than 10 percent of the funds it receives under subpart A of this part.

(ii) For each fiscal year after 2003, the LEA must use not less than 5 percent of the funds it receives under subpart A of this part.

(b) The LEA may use additional funds under subpart A of this part to support ongoing training and professional development, as defined in section 9101(34) of the Act, to assist teachers and paraprofessionals in carrying out activities under subpart A of this part.

Regulations on Teachers and Paraprofessionals

Sections 200.55 through 200.57 Highly Qualified Teachers

Statute: Under section 9101(23) of the ESEA, a highly qualified teacher in any public elementary or secondary school must hold at least a bachelor's degree and either (1) have obtained full State teacher certification or (2) have passed the State teacher licensing examination and hold a license to teach in that State. A teacher in a public charter school may instead meet the certification or licensure requirements of the State's public charter school law. No highly qualified teacher may have his or her certification or licensure requirements waived on an emergency, temporary, or provisional basis.

Section 9101(23) of the ESEA contains additional requirements for a highly qualified teacher depending on which grade level the teacher teaches and whether the teacher is new to the profession. An elementary school teacher who is new to the profession must have demonstrated subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum by passing a rigorous State test. Passing a rigorous State test can mean passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum.

A middle or secondary school teacher who is new to the profession must have demonstrated a high level of competency in each academic subject that he or she teaches by (1) passing a rigorous State academic subject test in each of those subjects or (2) successfully completing, in each of those subjects, an academic major, coursework equivalent to an undergraduate academic major, a graduate degree, or advanced certification or credentialing. Passing the rigorous State test can mean receiving a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects that the teacher teaches.

To be highly qualified, an elementary, middle, or secondary school teacher who is not new to the profession must meet the applicable requirements for a new teacher or must demonstrate competence in all academic subjects that he or she teaches based on a high objective uniform State standard of evaluation. To be considered a high objective uniform standard of evaluation, the State standard may involve multiple, objective measures of teacher competency and must satisfy these six criteria:

- Be set both for grade-appropriate academic subject matter knowledge and for teaching skills.

- Be aligned with challenging State academic content and student academic achievement standards and developed through consultation with core content specialists, teachers, principals, and school administrators.

- Provide objective and coherent information about the teacher's attainment of the core content knowledge in the applicable academic subject.

- Be applied uniformly to all teachers in the same academic subject and grade level throughout the State.

- Take into consideration, although not primarily, the time the teacher has been teaching the subject.

- Be available to the public on request.

Under section 1119(a)(1) of the ESEA, beginning with the first day of the 2002-2003 school year, each LEA receiving assistance under Title I, part A is responsible for applying these requirements to any public school teacher in a core academic subject supported by part A funds who is hired after that day. The LEA also must have a plan to ensure that all public school teachers teaching in core academic subjects in the LEA meet these requirements by the end of the 2005-2006 school year.

At the State level, section 1119(a)(2) of the ESEA requires each State to develop a plan to ensure that all teachers teaching in core academic subjects in the State meet these requirements by the end of the 2005-06 school year. The State plan must set annual measurable objectives for each LEA and school. At a minimum, these objectives must provide for an increase in the percentage of highly qualified teachers in each LEA and school and an annual increase in the percentage of teachers receiving high-quality professional development toward becoming highly qualified and

successful. The objectives may include other appropriate measures to improve teacher qualifications.

Proposed Regulations: In addition to incorporating the statutory provisions described above, proposed Secs. 200.55 through 200.57 would clarify that the requirements for teacher qualifications apply to teachers in core academic subjects. Proposed Sec. 200.55(a)(2) would clarify that a teacher in a program supported by funds under subpart A of this part is a teacher in a targeted assistance program paid with

Title I, part A funds and any teacher in a schoolwide program. Proposed Sec. 200.56(a)(1)(iii) would clarify that a teacher meets the full certification and licensure requirements applicable to the years of experience the teacher possesses. For example, a first-year teacher would meet this requirement if State law requires that teacher to work on a probationary basis for a limited time. Proposed Sec. 200.56(a)(1)(iii) would also clarify that a teacher meets the alternate route certification program requirements if the State permits the teacher to assume functions as a teacher and if the teacher is making satisfactory progress toward full certification as prescribed by the State and the program.

A teacher who does not teach a core academic subject, or an employee of a third-party contractor or supplemental services provider, would not be required to meet the teacher qualification requirements.

Reasons: Most of the provisions in proposed Secs. 200.55 through 200.57 would clarify unclear areas of the statute. Exempting teachers who do not teach in core academic subjects from the teacher qualification requirements, for example, would recognize and encourage the traditional flexibility that States have exercised in setting qualification standards in such areas as vocational education. Yet extending this flexibility would not jeopardize the statute's overall objective of ensuring that, through high-quality instruction, all students reach proficient levels of State academic student achievement standards

Section 200.60 Expenditures for Professional Development

Statute: Section 1119(h) allows an LEA to use funds under Title I, part A for ongoing training and professional development to help teachers and paraprofessionals meet the new statutory requirements governing their qualifications.

Section 1119(l) requires the LEA, for each of fiscal years 2002 and 2003, to use a minimum of 5 percent and a maximum of 10 percent of its part A funds for professional development aimed at ensuring that teachers who are not qualified become highly qualified by the end of the 2005-2006 school year. For each subsequent fiscal year, the LEA must use a minimum of 5 percent of its part A funds for that purpose.

Section 1119(j) of the ESEA permits an LEA to combine part A funds used for professional development with other Federal funds, including those from Title II of the ESEA, and funds from other sources.

Section 1119(k) prohibits a State from mandating, beyond the amounts specified in section 1119(l), the specific amount that an LEA, other than an LEA identified for improvement, may spend for professional development.

Proposed Regulations: Proposed Sec. 200.60(a) would clarify that professional development funds may be used for paraprofessionals, as well as teachers. It also would clarify that the statutory minimum would not apply to an LEA, if most teachers and paraprofessionals in the LEA's school district already meet the statutory qualification requirements. Proposed Sec. 200.60(b) would clarify that an LEA may use additional funds under subpart A of this part for ongoing training and professional development to help teachers and paraprofessionals carry out their subpart A activities.

Reasons: Proposed Sec. 200.60(a) is needed to ensure consistent application of the requirements in section 1119 and elsewhere in the ESEA that permit flexibility in the use of funds for professional development. The requirements in section 1119 contemplate that an LEA will give priority for the use of professional development expenditures to helping teachers and paraprofessionals meet the requirements for highly qualified teachers and the qualifications for paraprofessionals, respectively. Nevertheless, in cases where that priority has been met, and to help teachers and paraprofessionals carry out their activities under subpart A, funds under subpart A remain available, notwithstanding the mandated percentages in section 1119, to an LEA for ongoing training and professional development.

Sections 200.58 through 200.59 Paraprofessionals

Statute: Section 1119(c) through (g) of the ESEA contains requirements that apply to all paraprofessionals working in a program supported with Title I, part A funds and specify how each LEA receiving assistance under part A must ensure that those paraprofessionals meet those requirements.

Under section 1119(a), each paraprofessional hired after January 8, 2002, must have--

- (1) Completed at least two years of study at an institution of higher education;
- (2) Obtained an associate's or higher degree; or
- (3) Met a rigorous standard of quality and be able to demonstrate, through a formal State or local academic assessment, knowledge of, and the ability to assist in instructing reading, writing, and mathematics or, as appropriate, in reading readiness, writing readiness, and mathematics readiness.

Section 1119(d) requires a paraprofessional hired before January 8, 2002, to meet these requirements within four years of that date.

Section 1119(e) excepts from these requirements a paraprofessional who serves primarily as a translator, if the paraprofessional is proficient in English and a language other than English.

Section 1119(e) also excepts a paraprofessional working solely on parental involvement activities.

Section 1119(f) of the ESEA requires all paraprofessionals, regardless of hiring date, to have earned a secondary school diploma or the recognized equivalent.

Section 1119(g) of the ESEA specifies that a paraprofessional may provide one-on-one tutoring for eligible students, provided the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher; assist with classroom management, such as organizing instructional and other materials; provide assistance in a computer laboratory;

conduct parental involvement activities; provide support in a library or media center; act as a translator; or provide, under the direct supervision of a teacher, instructional services.

Section 1119(g)(3) allows a paraprofessional to assume limited duties assigned to similar personnel who do not work in a program supported with part A funds. Those duties may include duties beyond classroom instruction or duties that do not benefit participating children, if the paraprofessional spends the same proportion of time on those duties that similar personnel in the school spend on the same duties.

Proposed regulations: Proposed Secs. 200.58 and 200.59 would incorporate the statutory provisions governing paraprofessionals. In addition, proposed Sec. 200.58(a)(2) would clarify that the term

“paraprofessional” applies to an individual performing instructional support duties and not to an individual performing only non-instructional duties. Proposed Sec. 200.58(a)(3) would clarify that a paraprofessional in a program supported by funds under subpart A of this part means a paraprofessional in a targeted assisted program paid with those funds and any paraprofessional in a schoolwide program.

Proposed Sec. 200.59(b) would clarify the duties that paraprofessionals may perform. Proposed Sec. 200.59(c)(2) would clarify that a paraprofessional works under the direct supervision of a teacher

if the teacher plans the paraprofessional's instructional activities and evaluates the achievement of the students with whom the paraprofessional works. The paraprofessional also would be required to work in close physical proximity of the teacher.

Reasons: The clarifications in proposed Secs. 200.58(a)(2) and 200.59(b) would reinforce the consistent application of the statutory concept that paraprofessional qualification requirements apply to the performance of instructional support duties. The clarification in proposed Sec. 200.59(c)(2) on what would constitute working under the direct supervision of a teacher is intended to reinforce the statutory safeguards against the improper use of paraprofessionals to provide actual instruction.